Public Safety Branch Investigation Unit

Manitoba
Justice
Public Safety

Enforcement of *The Safer Communities and Neighbourhoods Act* & *The Fortified Buildings Act*

Status Report
November 2002

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1. INTRODUCTION

Manitoba has introduced two new laws to increase public safety by targeting fortified buildings and properties used for drugs, prostitution, solvent abuse and related activities.

The Safer Communities and Neighbourhooods Act (SCNA) – the first of its kind in Canada – came into force February 19, 2002. It is designed to target properties that adversely affect the safety and security of neighbourhoods through drugs, prostitution, solvent abuse and the unlawful sale of liquor. This act makes property owners accountable for ensuring these specific activities stop and that area residents are no longer exposed to the dangers arising from them.

The Fortified Buildings Act came into force on May 23, 2002. Under this act, fortified building refers to buildings with such barriers as bulletproof windows, barred windows or doors, or protective casings. The act allows the Director of Public Safety to designate a fortified building as a threat to public safety if it engages various public safety concerns. However, buildings are not fortified buildings if they only have reasonable security measures commonly taken for residential dwellings. The act recognizes that a fortified building can stop law enforcement and emergency personnel from gaining access to the building; occupants from exiting the building in an emergency; and that fortified buildings are often used by persons engaged in criminal activity.

The Public Safety Branch Investigation Unit (PSBIU) is responsible for investigations and inspections under both of these new laws. The Unit has several experienced investigators responsible for receiving complaints, collecting evidence and enforcing provisions of *The Safer Communities and Neighbourhoods Act* and *The Fortified Buildings Act.*

This report summarizes activities of the PSBIU between March 2002 and September 30, 2002. Section 2 focuses on PSBIU operations conducted under *The Safer Communities and Neighbourhoods Act*. Section 3 outlines the first investigation, inspection and Order issued against a fortified building under *The Fortified Buildings Act*.

2. *THE SAFER COMMUNITIES AND NEIGHBOURHOODS ACT*

1. Overview of the act

The Safer Communities and Neighbourhoods Act (SCNA) is the first of its kind in Canada. A summary of the act is outlined below.

Targeted activities

The act holds property owners accountable for threatening or disturbing activities that regularly take place on their property including:

- possession, use, consumption, sale, transfer or exchange of a non-potable intoxicating substance
- unlawful sale of liquor
- use, consumption, sale, transfer or exchange of an intoxicating substance (sniff)
- unlawful possession, use, consumption, sale, transfer or exchange of drugs
- prostitution and related activities

The act refers to activities that are ongoing, not those happening occasionally.

Definition of Property

Under the act, property can include a structure, business, house, apartment, suite, co-operative housing Unit, mobile home or land on which there is no building.

The Process

The process starts when one or more neighbourhood residents, who fear for their safety or security, file a complaint with Manitoba's Director of Public Safety. **All complaints are confidential.** The identities of those who file complaints cannot be revealed at any time. The Director may launch an investigation if there is evidence to support the claim. The Director has several options:

- issue a warning letter to the property owner
- resolve the problem out of Court
- apply for a Community Safety Order, with or without a Closure Order against the property
- apply for an Emergency Closure Order

If the Director decides not to act on the complaint, the person or persons who make the complaint can take the matter to the Court of Queen's Bench at their own cost.

Investigations

The Public Safety Branch of Manitoba Justice receives and investigates the complaint.

When a Community Safety Order or an Emergency Closure Order is Granted

When an Order is granted, a notice and a copy of the Order outlining conditions are posted on the property. At the same time, a copy of the Order is served on the owner. It

directs the owner to take steps to stop the problem and to bar tenants from continuing in specified activities. It may also direct some or all occupants to leave for a specific period if they have been involved in such activities. The tenancy agreement or lease of any tenant may also be terminated. The property may also be closed for up to 90 days.

Innocent Tenants

Tenants who have not been involved in any illegal activities can apply to the Court for a variance of the Order, which allows them to return to the property. The application has to be done within 14 days of being served, although the Court may extend this time.

Appeal Options for Owners

Before the closure date, the owner may ask the Court to set aside the Order. A property owner may also appeal an Order it involves a question of law and if a judge of the Court of Appeal has given permission. This must be done within 14 days after the Order is pronounced or within such further time as a judge allows. The judge's decision on the application for leave to appeal is final and not subject to further appeal.

Failure to Comply With An Order

An owner who does not comply may face a number of penalties, including a fine of up to $500 for every day compliance does not occur, along with possible fines or imprisonment if found in contempt of Court.

An owner who transfers property to another party without letting them know that an Order is in effect may be liable to a fine of up to $20,000 and/or a year in prison. If the tenants involved in unlawful activity ignore the Order, they may be liable to a fine of up to $500 and may also be liable to fines and/or imprisonment if found in contempt of Court.

Offences Under the act

Anyone who removes or defaces an Order or in any way interferes with it faces a fine up to $2,500 and/or three months in prison. Someone who enters a property closed under an Order may be liable to a fine up to $5,000 and/or six months in prison.

False Accusations

Each complaint is thoroughly investigated. If no evidence is found to support it, the complaint is dropped.

Closure Costs

The owner of the property is responsible for the cost of the closure of the property.

2. PSBIU Complaint Status Report

PSBIU tracks the number, nature and resolution of complaints received by the Unit. This section of the report provides a profile of complaints and results of investigations.

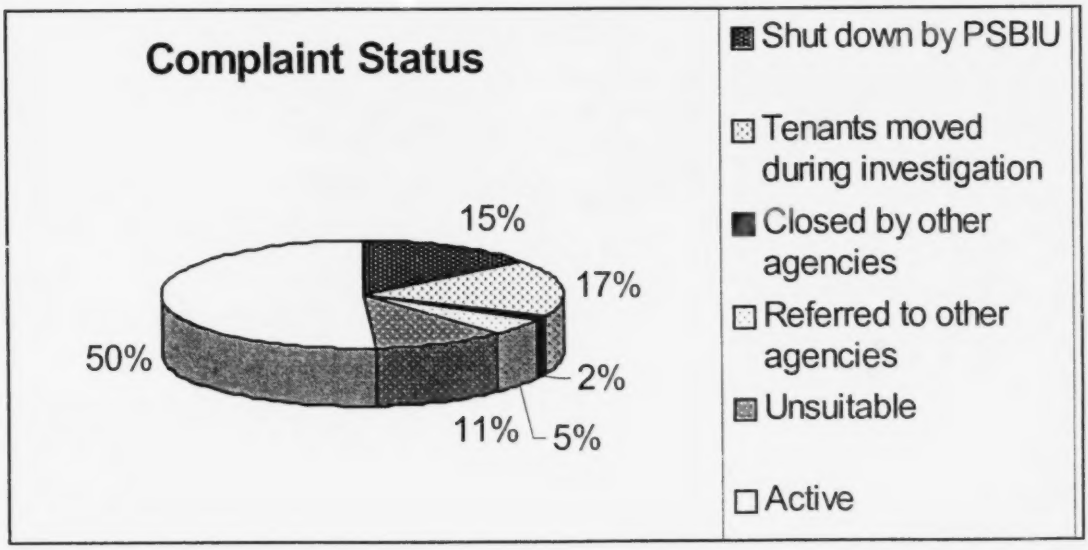
Target Activities

Table 1 identifies the nature of complaints received by the PSBIU under *The Safer Communities and Neighbourhoods Act*. In many instances, a single complaint will involve more than one targeted activity. For example, a complaint may allege that both drugs and prostitution-related activity are occurring at a residence. In addition, multiple complaints have been received about the same property.

Table 1-Target Activities

Target Activities	Number of Complaints
Drug related	103
Prostitution related	45
Alcohol related	23
Volatile substances related (sniff):	15
Total	123

Figure 2 below identifies the status of complaints received by the PSBIU.



Resolution of Complaints
Table 2 identifies how complaints have been resolved by the PSBIU. Options range from seeking a Community Safety Order, informal resolution, referral to police or another agency, to dismissal of complaints falling outside of the act.

Table 2 – Resolution of Complaints

Resolution	Operations	Complaints
PSBIU investigations shutting down drug, sniff and prostitution operations	13	18
Problem tenants moved during the course of investigation	14	21
Premises closed by other agencies	2	2
Referred to other agencies	6	6
Unsuitable	13	13
Active	60	63

PSBIU Investigations Shutting Down Drug, Sniff and Prostitution Operations
Complaint investigation by the PSBIU that results in these operations being shut down may be achieved by informal resolution, other agency involvement, or Community Safety Orders. See the following examples.

Problem Tenants Moved During the Course of Investigation
These complaint investigations occur when those responsible for the activity move during the course of the investigation. This may be due to the transient nature of these people or to their becoming aware of the investigation. As an example, in an investigation of a sniff trafficking complaint, those responsible were tipped off by the caretaker of a building being used as an observation point. It was later learned the caretaker was a customer of theirs.

Premises Closed by Other Agencies
This occurs when the problem premises are closed by other agencies during the investigation. For example, a complaint was received by the PSBIU and the investigators conducted preliminary observations at the location. They noted that the City of Winnipeg had already shut down the house and the PSBIU investigation was closed.

Referred to Other Agencies
Complaints that are more appropriately dealt with by other agencies are referred to those agencies. An example is a residence being used to grow illegal drugs (a grow operation). The landlord made a complaint to the PSBIU about the drug activities and advised the

Unit that the tenants had abandoned the residence. Investigators discovered the residue indicating the house had been used for a grow operation. The Winnipeg Police Service Drug Unit was contacted and took over the investigation.

Marijuana Grow Operation

Marijuana Grow Operation

Unsuitable Complaints
Some complaints do not meet the requirements of the act, are frivolous or vexatious, or are too general to pursue. An example is a complaint of drug and prostitution activities in a complex of apartment buildings with hundreds of suites. The complainant was unable to be more specific as to the actual location of the activities.

Active Investigations
These complaints are currently under investigation and have not yet been resolved.

3. PSBIU Investigations Shutting Down Drug, Sniff and Prostitution Operations

The following case reports highlight PSBIU operations leading to the shutting down of drug, prostitution and solvent trafficking operations.

1. **<u>Drugs and Prostitution</u> - North End of Winnipeg- CR# 12/02, CR# 26/02, CR# 84/02**:

On March 5, 2002, a complaint was received by the PSBIU regarding prostitution related activities at a rooming house in the North End of Winnipeg, which were adversely affecting the neighbourhood. Two additional complaints were subsequently received. The complaints indicated that there were a number of prostitutes working from that location who would take their customers into the house or the immediate area, and that the "pimp" resided at the suspect premises. The complaint further indicated that condoms and syringes were strewn about the area. The PSBIU commenced an investigation. Surveillance was conducted on eighteen occasions, and combined with videotaped evidence revealed that 3 prostitutes were living at or using the target premises as a base of operations. On May 23, 2002, upon sufficient evidence being obtained, the landlord was advised of the complaint and results of the investigation. The landlord was co-operative and served notice to vacate upon the residents. The residents complied with the notice and the complaint was resolved.

2. Drug House - St. James area of Winnipeg- CR# 28/02:
On April 12, 2002, a complaint was received by the PSBIU regarding drug related activity at a housing unit in the St. James area of Winnipeg, which was adversely affecting the community. The complaint indicated that drugs were being trafficked from the unit and that "customers" were constantly driving or walking up to purchase drugs. The PSBIU commenced an investigation. Extensive surveillance was conducted with personal observations and videotaped evidence which lead the PSBIU to the conclusion that the allegations were correct. On August 26, 2002, the landlord was advised of the complaint and the results of the investigation. The landlord was co-operative and served the involved tenants with a notice to vacate. The tenants complied and the complaint was resolved. The Winnipeg Police Service Vice Unit was advised of our investigation and the evidence obtained for possible follow-up.

3. Drug House and Prostitution - Central area of Winnipeg – CR #41/02:
On April 30, 2002, a complaint was received by the PSBIU regarding activities taking place at and around an address in the central area of Winnipeg, that were having an adverse affect on the surrounding community. The complaint indicated that prostitutes were using the target address as their home base, attracting numerous 'johns' to the area, and cocaine was being sold out of the address. PSBIU initiated an investigation that determined that several drug trafficking groups would utilize this rooming house. The traffickers would come and go, taking the prostitutes with them, thus making it difficult to establish that the problem was habitual. It became quite apparent that this rooming house was in fact a 'flop' house where anybody could go to buy or sell drugs. As such, the premises appeared to be an abandoned house. PSBIU contacted Environmental Health officials, and on September 16, 2002, we attended the premises togetherand the premises were deemed unsafe and unfit for human occupation. The building was ordered closed, thus resolving the problem.

4. Drug House and Solvent Trafficking - Central area of Winnipeg- CR #45/02:
On May 10, 2002, a complaint was received by the PSBIU regarding drug and volatile substance related activities taking place in a dwelling house in the central area of Winnipeg, which were adversely affecting the neighbourhood . The complaint indicated that both "sniffers" and other persons would, singly or in small groups, walk up to the rear door of the target premises. After knocking at the door they would walk to a small deck or platform at the rear of the house where the occupants would sell sniff or drugs. This activity had been going on for the past three years. The PSBIU commenced an investigation, and in the process obtained an "O.P." (observation point) in the building next door. The day investigators arranged for the O.P. it became obvious that this was a drug trafficking and sniff house. The very next day when investigators set up surveillance there was no activity. Subsequently investigators learned that a person associated to the building from where investigators were conducting surveillance, was well acquainted with the occupants of the target house next door and evidently tipped them off. With this

knowledge, on May 15, 2002, the offenders quickly packed up and moved, thus resolving the problem to the satisfaction of the complainants.

5. Solvent Trafficking - Central area of Winnipeg- CR# 46/02:
On May 14, 2002, a complaint was received by the PSBIU regarding volatile substance (sniff) related activities taking place at a single dwelling house in the central area of Winnipeg, which were adversely affecting the neighbourhood. The complaint indicated that there were numerous "sniffers", walking singly or in groups of up to 6, and purchasing "sniff" from the target premises. The PSBIU commenced an investigation and surveillance was conducted on 7 different occasions. Personal observations and videotaped evidence revealed that at least 12 individuals attended to the target house and purchased small bottles of "sniff". On June 20, 2002, upon sufficient evidence being collected, the landlord was advised of the complaint and the results of the investigation. The landlord was co-operative and served the involved residents with notice to vacate. The residents complied with the notice and the complaint was resolved.

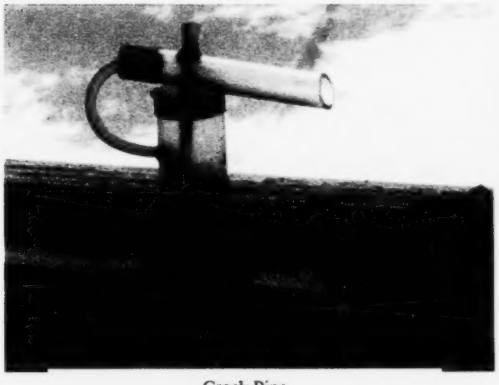
6. Solvent Trafficking - Point Douglas area of Winnipeg - CR# 48/02:
On May 24, 2002, a complaint was received by the PSBIU regarding volatile substance related activities taking place at a single dwelling house in the Point Douglas area of Winnipeg, which were adversely affecting the neighbourhood. The PSBIU commenced an investigation and surveillance was conducted on 8 different occasions. Personal observations and videotaped evidence revealed that at least 12 different persons were observed to purchased "sniff" from the target house on at 31 occasions. Surveillance further revealed the resident of the target house purchasing a container of a volatile substance from a large retailer. Upon sufficient evidence being collected the landlord was advised of the complaint and the results of the investigation. The landlord was co-operative and on July 19, 2002, served the involved residents with notice to vacate. The residents complied with the notice and the complaint was resolved.

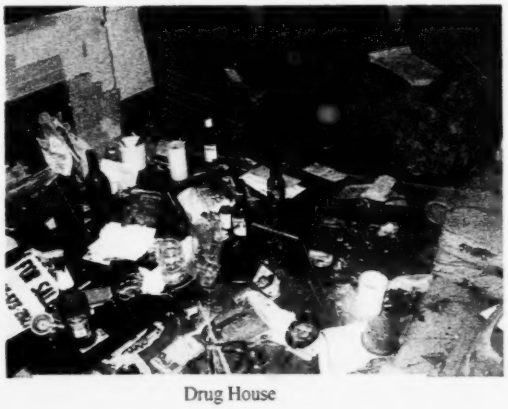
7. Drugs and Prostitution - Central area of Winnipeg- CR# 62/02:
On June 12, 2002, a complaint was received by the PSBIU regarding drug and prostitution related activities in a side by side house in the central area of Winnipeg, which were adversely affecting the neighbourhood. The complaint indicated that 3 girls, one of whom was 14 years of age, were residing with their parents at the target address and prostituting themselves from that address. The complaint further indicated that the girls were being "pimped" by their parents, and that drugs were being delivered to the residence on a frequent basis. The PSBIU commenced an investigation and conducted surveillance on numerous occasions. Through personal observations and videotaped evidence the investigation revealed that the allegations of the prostitution of these young females were correct. The PSBIU met with the Winnipeg Police Service Morals Unit and apprized them of the complaint and evidence to date. The Winnipeg Police Service commenced an investigation which resulted in the parents and one of the females being charged with prostitution related offences. On August 14, 2002, the landlord was advised of the complaint and results of the investigation. The landlord was co-operative and

served the involved tenants with notice to vacate from two adjacent premises. The tenants complied with the notice and the complaint was resolved.

8. <u>Drug House</u> - West Broadway area of Winnipeg – CR #61/02:
On June 12, 2002, a complaint was received by the PSBIU of individuals at this address selling cocaine. The person(s) selling the cocaine had just moved into this residence and the increased traffic to and from the residence was readily apparent. A short time later an area resident found a vial of white powder in the area and was instructed to turn this item into the Winnipeg Police Service who indicated that it was cocaine. PSBIU conducted surveillance on this address and determined that this was a group of individuals that have a long history of selling cocaine. These individuals also are transient in that they move as soon as there is any indication that their activities have come to the attention of law enforcement agencies. The PSBIU maintained a close working relationship with the Winnipeg Police Service Community Officers and as a result on June 24, 2002, these individuals moved prior to the completion of our investigation. The adverse effect on the community ended with the PSBIU receiving positive feedback from the community.

9. <u>Drugs and Alcohol</u> - West End area of Winnipeg- CR# 72/02:
On June 26, 2002, a complaint was received by the PSBIU regarding drug and alcohol related activities taking place at a single dwelling house in the West End of Winnipeg, which were adversely affecting the neighbourhood. The complaint indicated that transients had taken over a vacant house. The PSBIU commenced an investigation and conducted periodic surveillance on the target house. Investigation revealed that the target house was vacant however, was being used by unknown person(s). As a result, the PSBIU contacted the Winnipeg Police Service and City of Winnipeg Environmental Health Officer for the area. On July 10, 2002, a joint inspection was conducted by the Winnipeg Police Service, City of Winnipeg Environmental Health Officer and PSBIU. The premises were found to be in a total state of disarray with garbage and debris strewn everywhere. There was evidence of recent drug related activities taking place in the premises. The City of Winnipeg Environmental Health Officer deemed the premises a health hazard and the building was placarded and boarded. The complaint was resolved.


Crack Pipe


Drug House

10. **Drugs and Prostitution - Central area of Winnipeg- CR# 103/02, CR# 104/02, CR# 105/02:**

On September 12, 2002, a complaint was received by the PSBIU regarding drug and prostitution activities taking place at a single dwelling house in the central area of Winnipeg, which were adversely affecting the neighbourhood. Subsequently, two further complaints were received about this house. The complaints indicated that gang members were using this house and that neighbourhood residents were being harassed, felt threatened and had observed used syringes in the area. The PSBIU began an investigation and conducted surveillance on the house which resulted in 115 "customers" being observed attending to the house over a 7 day period. The investigation also revealed evidence of a "dial-a-dope" operation also based from this house. The Winnipeg Police Service was advised of the investigation and assisted in identifying several of the persons in this house as having criminal organization associations. On October 5, 2002, the landlord was advised of the complaint and the results of the investigation. The landlord was co-operative and served the tenants with notice to vacate. The tenants complied and the complaints were resolved.

11. **Drugs and Prostitution – Central area of Winnipeg- CR# 122/02, CR# 123/02:**

On October 28, 2002, the first of two complaints was received by the PSBIU regarding a "crack house" and prostitution activities operating out of a house in the central area of Winnipeg, which were adversely affecting the neighbourhood. The complaints indicated that area residents were being solicited for money by the persons frequenting the house as well as being harassed to purchase cocaine. The PSBIU began an investigation with surveillance observing 93 "customers" over a 4 day period. The customers would knock on the rear door of the property and wait 2-3 minutes to be allowed entry through the door which was secured by a "bracer-bar" fortification. A look-out was frequently observed on the second floor of the property. The evidence gained was shared with the Winnipeg Police Service. The landlord was advised results of the investigation and was co-operative. On November 08, 2002, the landlord served notice to vacate on the residents. The residents complied with the notice and the complaint resolved.

12. **Solvent Trafficking and Prostitution – Central area of Winnipeg- CR# 125/02:**

On November 07, 2002, a complaint regarding solvent trafficking and prostitution activities taking place at a rooming house in the central area of Winnipeg, which were adversely affecting the community. Persons were harassing residents for money to purchase solvents and urinating and defecating on the street in broad daylight. The PSBIU began an investigation that that expanded to include the Winnipeg Police Service and City of Winnipeg Environmental Health officers. The suite being used for the reported activities was ordered vacated by the Environmental Health officer. The landlord, who co-operated with investigators, was instructed to have the premises cleaned and fumigated. The complaint was resolved.

It is of note that the owners are renovating 4 of the above 13 properties, targeted by the PSBIU, in an effort to improve them.

4. Public Awareness and Presentations

PSBIU has produced a fact sheet on *The Safer Communities and Neighbourhoods Act* and has conducted presentations as part of its mandate to work with neighbourhoods and agencies to increase public and agency awareness of the act.

PSBIU has made presentations to the following groups:

- Non Potable and Inhalant Abuse Committee
- Residential Tenancies Branch
- Manitoba Housing Authority; Tenants Relations Officers
- Winnipeg Police Service Community Support Officers, City Health, City Zoning and Bylaw, Provincial Health
- Professional Property Managers Association
- Spence Neighbourhood Association Inc.
- City of Winnipeg Community Resources
- Winnipeg Police Service Criminal Investigation Bureau
- Real Estate Institute of Manitoba

3. The Fortified Buildings Act

1. Introduction

The Fortified Buildings Act addresses fortification of buildings that pose a threat to public safety by preventing emergency response personnel, law enforcement officials or occupants from gaining access to or escaping from those buildings in an emergency. The act also recognizes that buildings are often used by persons engaged in criminal activity.

2. Overview of the act

Definition of a Fortified Building

A building that has been fortified in a way that exceeds reasonable security measures common for residential dwellings which include:

- bulletproof or explosive resistant material on doors or windows
- protective metal plating on the interior or exterior of the building that is not required for its structural integrity
- armoured or specially reinforced doors
- metal bars on exterior doors or window
- any other fortification set out in the regulations

The act applies to businesses as well as residences. The purpose of the building is one of several factors taken into account in determining whether the fortifications amount to a threat to public safety.

Director of Public Safety Designates a Threat to Public Safety

The Director is responsible for determining whether a fortified building is a threat to public safety. To do this, specialized investigators from the Public Safety Branch Investigation Unit will enter and inspect the premises. However, inspectors can only enter a dwelling place if its occupants consent, or under the authority of a warrant.

Factors to be Considered

In determining whether a fortified building is a threat to public safety, the Director can take into account the following factors:

- the number and type of fortifications
- whether those fortifications could impair the ability of emergency response and law enforcement personnel to gain access to the building
- whether the fortifications could impair the ability of people inside the building to escape in an emergency
- the nature of the neighbourhood or area of the building
- the buildings proximity to schools, playgrounds or other places where there are likely to be children
- the purpose for which the building is used
- whether the fortifications are reasonably necessary for the purpose for which the building is being used

- the persons who own, occupy or visit the building
- whether criminal activity or other disruptive behaviour has previously taken place in or around the building
- any other factors the Director considers relevant

Removal of Fortifications

After a fortified building has been designated a threat to public safety, the Director issues an Order to the owner and/or occupants specifying the fortifications that must be removed by a specified date. If the owner does not comply with the removal Order the Director may issue an Order closing the building for up to 90 days to have the specified fortifications removed.

The occupants of a building closed under an Order issued by the Director must leave the building until the removal of the fortifications is complete.

Offences Under the act

Anyone who:

- removes or defaces an Order or in any way interferes with it
- who enters a closed building without the Director's consent
- fails to comply with a removal Order
- obstructs, hinders, or makes a false or misleading statement to an inspector

faces a fine of $5,000 and/or three months in prison or, in the case of a corporation, a fine of $10,000.

Removal Costs

The cost of removing fortifications under a Removal Order is the responsibility of the property owner. If the owner does not comply, the Director may recover closure costs from the owner under a Closure Order.

Appeal

A Removal Order issued by the Director may be appealed to the Court of Queen's Bench within 14 days.

PSBIU INSPECTIONS RESULTING IN THE REMOVAL OF FORTIFICATIONS

The PSBIU has conducted one inspection under the act to this point.

1. **Elmwood Residence:**

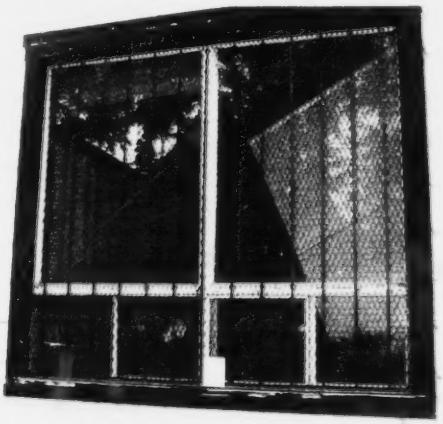
The Public Safety Branch Investigation Unit had reason to believe that a residence in the Elmwood are of Winnipeg, was a fortified building that could be a threat to public safety. It was believed that the building had been associated with outlaw motorcycle gangs, including the Hells Angels.

The PSBIU conducted a preliminary investigation of the building, which included making observations of the exterior fortifications and the surrounding neighbourhood, reviewing information provided by the Winnipeg Police Service, and conducting interviews of WPS Gang Unit members. The PSBIU obtained a Warrant to Enter and Inspect on August 1, 2002.

The Warrant was executed on August 1, 2002. The inspection lasted 2.5 hours, and resulted in 85 photographs, videotape and hundreds of measurements being obtained. The inspection detailed 16 fortifications, which included metal bars and plating, blocking 10 doors and windows on this property. The PSBIU submitted an investigation and inspection report to the Director of Public Safety who issued a Removal Order on August 8, 2002 to both the owner and the resident listing the fortifications to be removed.

On September 3, 2002, a final inspection was conducted which revealed full compliance with the Removal Order.

Fortified Door



Fortified Window

4. Other Inspections

Other fortified premises have been brought to the attention of the PSBIU. Further investigation may result in inspections being conducted.